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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/509,844

09/30/2004

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F-8406

7742

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03/19/2008

EXAMINER

PAINTER, BRANON C

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

03/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,844	<b>Applicant(s)</b> FUJIWARA ET AL.	
	<b>Examiner</b> BRANON C. PAINTER	<b>Art Unit</b> 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) 1,5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-4 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>09/30/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 09/30/04 is being considered by the examiner.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
  - a. The abstract is more than 150 words long. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited.
  - b. Appropriate correction is required for all the preceding objections.

### ***Claim Objections***

3. Claims 7 and 9-11 are objected to because of the following informalities:
  - a. Claim 7, "number of a guide units." The examiner presumes this should be written "number of guide units."
  - b. Claim 9, "the four guide wheel units." The examiner presumes this should be written "the guide units."
  - c. Claims 10 and 11 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a

previous claim. These claims are drawn to a tower structure. However, a tower structure is never positively claimed. All that is claimed is a scaffold for conducting operations on a tower structure. The phrase "for conducting...tower structure" is considered a recitation of intended use. As such, it fails to further limit the claim and is given little patentable weight. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Claim 3 recites the limitation "the tower bottom section." There is insufficient antecedent basis for this limitation in the claim.
7. Claim 8 is rendered vague and indefinite by the phrase "and/or." It is unclear whether the claim requires both a person and an operation manual on the platform, or if only one of the two is necessary. For the purpose of this examination, the examiner presumes that either a person or an operation manual on the platform meets the claim limitations.

8. Claim 9 recites the limitation "the four guide wheel units." There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 101***

9. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

10. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention positively claims a person, which is considered a natural phenomenon and therefore falls outside the limits of statutory subject matter.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

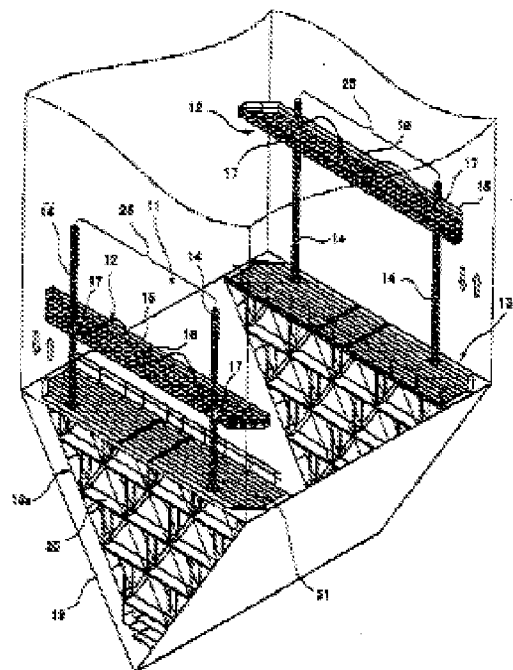
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

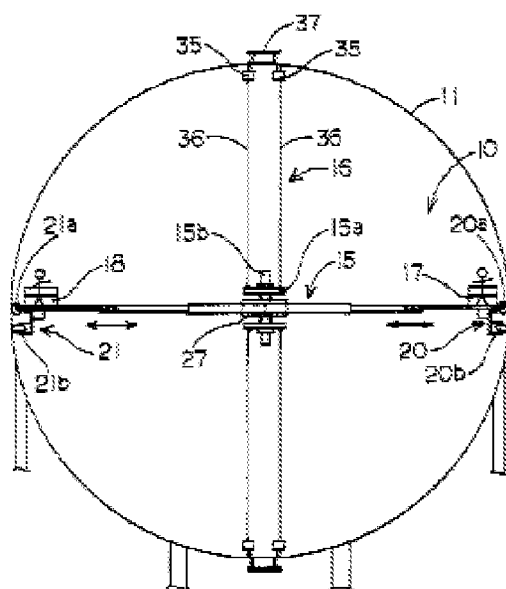
1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
- 
13. The examiner notes the phrase “for conducting...tower structure” present in all of the claims is considered a recitation of intended use. As such, it fails to further limit the claims and is given little patentable weight.
  14. The examiner further notes that a tower structure is never positively claimed. Only a scaffold for conducting operations on a tower structure is claimed. Therefore, any claim language attempting to define the characteristics of a tower structure in the claims is considered non-limiting, since it is directed to an unclaimed member.
  15. Claims 2-4, 7-8, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsumagari et al. (JP 2002-81202 translation) in view of Watari et al. (JP 8-54099 translation).
  16. Regarding claim 7:
    - a. Tsumagari discloses a scaffold including:
      - i. Two posts (14, Fig. 1).
      - ii. A height-adjustable operations platform (15) attached such that it is free to move up and down along the posts.
    - b. Tsumagari does not expressly disclose guide units on the periphery of the platform, each guide unit having a wheel capable of being displaced towards or away from a tower structure wall and held in continuous contact with the surface.

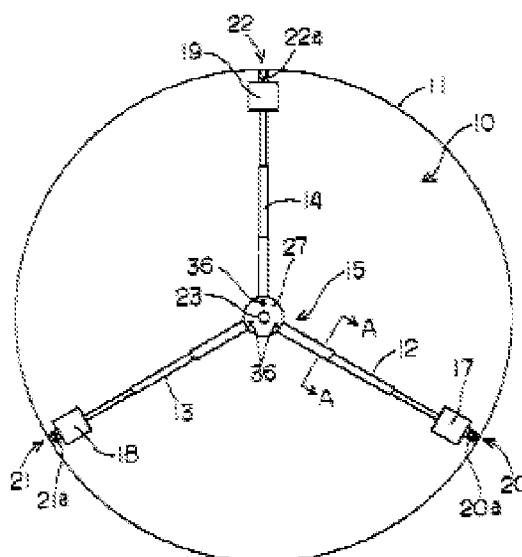
- c. Watari discloses scaffolding with guide wheels (20-22, Figs. 1, 2) on a periphery of a platform (17-19), each wheel held in continuous contact with a tank surface ("respective advancing/retreating mechanisms...prescribed distance," Para 10).
- d. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the scaffolding of Tsumagari by adding guide wheels held in continuous contact with a tank surface to the periphery of the platform as taught by Watari, in order to help support the platform and provide a smooth hoisting motion.
- e. The examiner notes the phrases "for being erected...thereof" and "for maintaining...platform" are considered recitations of intended use. As such, they fail to further limit the claim and is given little patentable weight. That said, the posts of Tsumagari are meant to be assembled inside the tower structure, and the guide wheels of Watari are used to maintain stable vertical movement.



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【52】



Reproduced from Watari



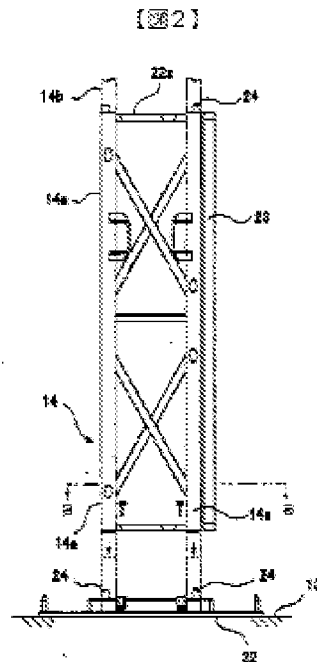
Art Unit: 3633

17. Regarding claim 2, Tsumagari as modified above further discloses posts, each comprising a plurality of stacked and connected pieces (14 made of pieces 14a, 14b, etc., Para 39).

- a. The examiner notes the phrases “the tower structure further comprising a materials transport port” and “post pieces being...top section” are considered non-limiting as they attempt to modify an unclaimed structure. If this problem was corrected, the maintenance hatch (Para 35) disclosed by Tsumagari would meet these limitations.

18. Regarding claim 3, Tsumagari as modified above further discloses a lower support base (22, Fig. 2) and securing pieces (bolts, Para 37).

- a. The examiner notes the phrase “for said...support base” is considered a recitation of intended use. As such, it fails to further limit the claim and is given little patentable weight. That said, the bolts disclosed by Tsumagari would meet this limitation.



Reproduced from Tsumagari

19. Regarding claim 4, Tsumagari as modified above further discloses a knockdown platform structure (15; Para 35).
- a. The examiner notes the phrase “the tower structure further comprising a materials transport port” is considered non-limiting as it attempts to modify an unclaimed structure. If this problem was corrected, the maintenance hatch (Para 35) disclosed by Tsumagari would meet these limitations.
20. Regarding claim 8, Tsumagari as modified above renders the claimed method steps obvious since such would be the logical manner of using the combination.
21. Regarding claims 10-11, Tsumagari as modified above discloses all the claimed structure, as claims 10-11 fail to further limit the parent claim by merely attempting to modify an unclaimed structure.

22. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Tsumagari/Watari as applied to claims 2-4, 7-8, and 10-11 above, and further in view of Tsumagari embodiment B (JP 2002-81202 translation).

- a. Tsumagari/Watari discloses a scaffolding structure as set forth above, with Watari further disclosing the use of four guide wheels (Para 15), and discloses the use of guide wheels that are evenly spaced around the periphery of the scaffolding (Fig. 2).
- b. Tsumagari/Watari does not expressly disclose a scaffolding structure that completely lines the tank interior such that four evenly placed guide wheels would all contact the tank interior wall.
- c. Tsumagari B further discloses that the scaffolding structure may completely line the tank interior (Fig. 9).
- d. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the scaffolding of Tsumagari/Watari by adding four evenly spaced guide wheels as taught by Watari, and to further line the entire tank interior with scaffolding, in order to allow a cleaning crew to access all walls of the structure, while supporting the scaffolding and maintaining stable vertical movement with the use of four wheels.
- e. The examiner further notes that it would have been an obvious matter of design choice to modify the scaffolding by using four guide wheels instead of three, since applicant has not disclosed that four wheels solves any stated

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANON C. PAINTER whose telephone number is (571)270-3110. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM, alternate Fridays off.

Art Unit: 3633

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. C. P./  
Examiner, Art Unit 3633  
03/13/08

/Brian E. Glessner/  
Supervisory Patent Examiner, Art Unit 3633